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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,621	07/25/2001	Seisaku Iwasa	IS-US000501	3456
22919	7590	12/02/2004	EXAMINER	
SHINJYU GLOBAL IP COUNSELORS, LLP 1233 20TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-2680			STASHICK, ANTHONY D	
			ART UNIT	PAPER NUMBER
			3728	
DATE MAILED: 12/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/911,621

Applicant(s)

IWASA ET AL.

Examiner

Anthony Stashick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5 and 7-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7,9-24 and 26-32 is/are rejected.
- 7) ☒ Claim(s) 8 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 7, 9-10, 12-24 and 26-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenna 5,893,260 in view of Reichental et al. 5,794,406. McKenna '260 discloses substantially all the limitations as claimed including the following: a vertical form-fill-seal packaging machine forming bags out of tubular packaging material (see Figures 5 or 13); a first transfer unit 73 for receiving separated bags that have been previously separated and are supplied to the first transfer unit by being dropped thereto in a first direction such that the bags contact the first transfer unit after the bags are separated (see col. 5, lines 63-65, the bags are separated then dropped to the conveyor belt); the first transfer unit transferring the separated bags to the downstream device by carrying the separated bags in a second direction (see Figures 5 and 13, 73 is diagonally downward which is different than vertical); the second direction being not parallel to the first direction (see Figure 5); a first drive unit for driving the first transfer unit (wheels driving belt 73 in Figure 5); the first transfer unit being a belt 73; the belt is inclined so that the bags move diagonally downward (see Figure 5, diagonally down and to the right); forming means 30 for forming the packaging material received from a supply unit into a tubular shape; pull-down means 50 for transferring the tubular-shaped packaging material downward; vertical sealing 31 means for vertically sealing an overlapped part of the tubular-shaped

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packaging material; transverse sealing means 31 for transversely sealing the tubular-shaped packaging material to form the bags; separating means 31 for separating and ejecting each of the bags. McKenna '260 does not specifically disclose the control means and the second transfer means as well as the first transfer means being made of two belts separated by an adjustable distance. Reichental et al. '406 teaches that the transfer means of a transfer unit can be controlled by appropriate hardware and software (see col. 7, line 66-col. 8, line 7) which can memorize and control the speed of the bags during transfer as well as well as controlling the settings stored in the memory of the computer used, including intervals of the bags ejected and speed of the first drive. Therefore, it would have been obvious, in view of Reichental et al. '406, to control the speed and ejection of the bags, as taught by Reichental et al. '406, to allow for optimum performance of the system without piling bags one on top of the other. Reichental et al. '406 further teaches that the first transfer unit can be multiple belts located one across from the other whose distance between the two belts can be controlled to determine the thickness of the bag after expansion. Therefore, it would also have been obvious to make the first transfer unit of McKenna '260 with two belts, as taught by Reichental et al. '406, to allow for control of the thickness of the bag while being transferred. Reichental et al. '406 still further teaches the use of multiple transfer units controlled by hardware and software to allow for swift controlled transfer of the completed bags in an orderly fashion. Therefore, it would have been obvious to use multiple conveyors and controls to control the speed of the bags to prevent back up in the line and to maximize production.

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3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 24 above in view of Mabry 4,719,741. The references as applied to claim 24 above disclose all the limitations of the claim except for the machine including a cooling unit for spraying cool gas on the sealed part of each of the bags sandwiched between the belts. Mabry '741 teaches that after heat-sealing the bags in a form-fill-seal machine, a cool spray can be applied to the seal to cool the seal to increase strength and reduce likelihood of leakage or total failure of the seal (see col. 4, lines 30-53). Therefore, it would have been obvious to place a cooling spray, such as that taught in Mabry '741, in the machine of the references as applied to claim 24 above, to cool the seal, increase the seal strength and reduce the likelihood of leakage or total failure of the seal.

#### *Allowable Subject Matter*

4. Claims 8 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Response to Arguments*

5. Applicant's arguments filed July 30, 2004 have been fully considered but they are not persuasive. Applicant argues that McKenna does not meet the limitations of claims 1, 20 and 31-32 because Figure 5 shows that the bag is already contacting the conveyor before being separated. This argument is not clearly understood. As noted above, McKenna clearly states "The jaws 60 and 64 open, thereby releasing the bag 62a which **drops onto a conveyor 73** to be

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moved to a stacking or use area.” (emphasis added). Clearly this teaches the dropping of the bag, after being cut, onto the conveyor. With respect to the Figures of McKenna, these figures show an embodiment of the invention but do not include all possible embodiments. Therefore, after further reading of McKenna, there is no statement in McKenna which suggests that the bags are resting on the conveyor before being cut, but only that they “drop” onto the conveyor after being cut, as required by the claims of the instant application. With respect to applicants arguments directed towards Reichental et al., McKenna teaches the bags being dropped to the first transfer unit and Reichental et al. teaches that a transfer unit can be made of two belts separated from one another to control the thickness of the bag. Therefore, Reichental et al. was used to teach the difference in conveying systems. With respect to applicants arguments directed towards Mabry, Mabry was used to teach the use of a cooling unit for spray cooling seals on bags. Therefore, applicant’s arguments with respect to the transfer unit are not clear.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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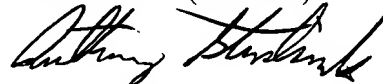
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Stashick whose telephone number is (571) 272-4561.

The examiner can normally be reached on Monday through Thursday from 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Anthony Stashick  
Primary Examiner  
Art Unit 3728

ADS